

DOCKET NO. TOS-125-USA-D

rejection, it was pointed out at the interview that a number of important issues are presented as follows:

ISSUES PRESENTED:

1. Whether the Egawa, et al. reference is prior art against the claims in this application.
2. Whether the effective filing date of the present application is November 23, 1998 as contended by the Examiner.
3. Whether the effective filing date of Application 09/989,459 is the international filing date of the corresponding international application.
4. Whether the present application is entitled to the benefit of the filing date of the corresponding Japanese application Serial No. 9-95307, filed March 30, 1997.
5. Whether the final rejection in this case is erroneous and the finality of the final rejection should be withdrawn.

With regard to these five issues, applicants respectfully submit that the proper answers to issues Nos. 1 and 2 is in the negative, and that the proper answers to issues Nos. 3-5 is in the positive.

THE EGAWA REFERENCE:

The Egawa reference relied upon by the Examiner is an article entitled "Cigarette Smoke-Induced Lipid Peroxidation And Its Oxidative Effect On Skin", Third ASCS Conference, Type A Tapai,

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Taiwan, May 23, 1997, Pages 271-277. There is no dispute that this reference was delivered at the third ACS Conference in Taipei on the date stated on the cover page of the reference. The issue presented, however, is whether this date of May 23, 1997 makes this a prior art reference against applicants' application.

THE HISTORY OF PROSECUTION OF COPENING APPLICATIONS DIRECTED TO  
THE CLAIMED INVENTION:

The present application Serial No. 09/989,459 was filed on November 21, 2001 as a divisional application of prior application Serial No. 09/478,882, filed January 7, 2000. This latter application was itself a continuation-in-part of application Serial No. 09/147,293, filed November 23, 1998.

The latter application was a national stage filing based on an international application No. PCT/JP98/01420 with an international filing date of 03/30/98 having a priority date of 03/30/97. A copy of the "Notification of Acceptance of Application Under 35 U.S.C. § 371 and 37 CFR 1.494 or 1.495" in the Egawa, et al. U.S. Application 09/147,293 is attached hereto. Also attached is a copy of the Declaration and Power of Attorney in U.S. Application Serial No. 09/147,293, filed November 23, 1998.

THE EFFECTIVE FILING DATE OF U.S. APPLICATION SERIAL NO. 09/147,293  
IS MARCH 30, 1998:

The "Notification of Acceptance of Application Under 35 U.S.C.

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§ 371 and 37 CFR 1.494 or 1.495" provides, in pertinent part, that "The filing date of the above-identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. § 363)".

This Notification of Acceptance lists the international filing date as March 30, 1998, not November 23, 1998 as contended by the Examiner in the Response to Arguments in the final rejection.

THE PRESENT APPLICATION IS ENTITLED TO THE FILING DATE OF THE PARENT JAPANESE APPLICATION NO. 9/95307 ON 30 MARCH 1997.

Filed with a U.S. Application Serial No. 09/147,293 was a "Claim For Priority", copy attached hereto. It can be seen from this document that applicants' claimed priority based on 35 U.S.C. § 365, and that in support of this claim a certified copy of the original foreign application was filed with the International Bureau on 01 May 1998 as evidenced by Form PCT/1B/304 which was attached to the application as filed. It can also be seen that this application was a PCT application corresponding to PCT/JP98/01420.

U.S. LAW AND THE PCT TREATY ENTITLE APPLICANTS TO A RIGHT OF PRIORITY OF MARCH 30, 1997.

A copy of 35 U.S.C. § 365, A-C, entitled "Right of Priority; Benefit of the Filing Date of a Prior Application" is attached hereto. Subsection A of 35 U.S.C. § 365 provides, in pertinent

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part, that:

"...A national application shall be entitled to the right of priority based on a prior filed international application..."

In the present application, the right of priority of U.S. Application 09/147,293 was the filing date of the prior filed international application filed on March 30, 1998 as evidenced by the "Notification of Acceptance of Application Under 35 U.S.C. § 371 and 37 CFR 1.494 or 1.495" which is attached hereto and discussed above.

In addition, 35 U.S.C. § 365(b) provides, in pertinent part, that:

"...An international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States".

Therefore, in accordance with this provision, it is respectfully submitted that the present application is entitled to a right of priority of the Japanese application No. 9/95307, filed 30 March 1997, as provided in the applicants' claim for priority filed in U.S. Application 09/147,293.

THE EGAWA, ET AL. REFERENCE IS NOT PRIOR ART.

In accordance with the above discussion, it can be seen that the Egawa, et al. reference dated May 23, 1997 is not prior art

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against the present application which is entitled to the filing date of Japanese Patent Application 9/95307, filed 30 March 1997. For this and the other reasons discussed above, the Egawa reference is not prior art since it is not earlier in time than the earlier filed Japanese patent application 9/95307. Consequently, the rejection based on the Egawa, et al. reference as being prior art is erroneous. It is therefore respectfully submitted that the Examiner would be justified in no longer maintaining this rejection.

Since the final rejection was based on an erroneous interpretation of fact and law in this case, it is respectfully submitted that the Examiner would also be justified in withdrawing the finality of the rejection and/or passing this case to issue. Withdrawal of the rejection is accordingly respectfully requested.

Reconsideration is respectfully requested of the rejection of Claims 3, 4, 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Egawa, et al., and further in view of Abstract JP 08119849.

As discussed above, the Egawa, et al. reference is not prior art against the present application which is entitled to the benefit of the priority date of the Japanese prior application 9/95307 filed March 30, 1997.

The Examiner's secondary reference of Japanese patent JP 08119849 fails to disclose a method of treating environmental stress due to tobacco smoke by suppressing reduction in cornea

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moisture content caused by contact with tobacco smoke comprising contacting the skin with a liniment containing a specified amount of a sulphur containing compound and one or more other ingredients as set forth in the claims herein. This Japanese patent is instead concerned with a cosmetic skin protectant to prevent skin disorders caused by lipid peroxidation.

It is respectfully submitted that the Japanese reference JP 08119849 fails to anticipate or render unpatentably obvious the subject matter called for in the claims herein. This coupled with the fact that the Egawa, et al. reference is not prior art against the present application, it is respectfully submitted that the rejection fails, as a matter of law. Consequently, the Examiner would be warranted in no longer maintaining this rejection. Withdrawal of the rejection is accordingly respectfully requested.

At the interview the parent international application, No. PCT/JP98/01420, was provided to the Examiner for the purpose of inspecting the original documents.

It was understood after discussion with the Examiners that the final rejection in this case would be withdrawn. The Examiners are thanked again for their courtesies and professionalism at the interview.

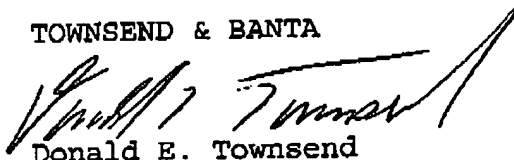
In view of the foregoing, it is respectfully submitted that the final rejection is erroneous and should be withdrawn. Early action and allowance of this application is accordingly respectfully requested. In the event there is any reason why the

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application cannot be allowed at the present time, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems.

Respectfully submitted

TOWNSEND &amp; BANTA



Donald E. Townsend  
Reg. No. 22,069

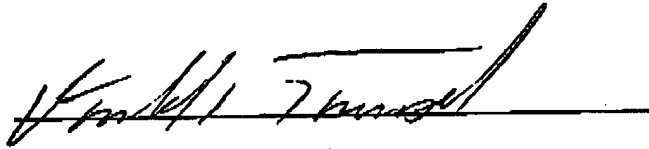
TOWNSEND & BANTA  
1225 Eye Street, N.W.  
Suite 500, #50028  
Washington, D.C. 20005  
(202) 682-4727

Date: February 13, 2003

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## CERTIFICATE OF FACSIMILE TRANSMISSION

This is to certify that I have transmitted by facsimile this Amendment After Final Rejection and Transmittal to Examiner Lauren Wells, U. S. Patent and Trademark Office, Art Unit 1619, Fax No. 703-872-9307 on February 13, 2003.

A handwritten signature in dark ink, appearing to read "Donald E. Townsend", is written over a horizontal line.

Donald E. Townsend



U.S. APPLICATION NO.  
09/147,293

EISA/AA

5611

TOWNSEND & BANTA  
1225 EYE STREET NW  
SUITE 500  
WASHINGTON DC 20005

INTERNATIONAL APPLICATION NO.

PCT/JP98/01420

U.S. FILING DATE

03/30/98

PRIORITY DATE

03/30/97

DATE MAILED:

01/22/99

NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371  
AND 37 CFR 1.494 OR 1.495

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as ☒ a Designated Office (37 CFR 1.494), ☐ an Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

23 NOV 1998  
35 U.S.C. 102(e) DATE

23 NOV 1998  
DATE OF RECEIPT OF  
35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371(C) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3. ☒ A request for immediate examination under 35 U.S.C. 371(f) was received on 23 NOV 1998 and the application will be examined in turn.

4. The following items have been received:

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

☒ a non-English language.  
☐ English.

☒ Translation of the international application into English.

☒ Oath or Declaration of inventor(s) for DO/EO/US.

☐ Copy of Article 19 amendments. ☐ Translation of Article 19 amendments into English.

The Article 19 amendments ☐ have ☐ have not been entered.

☐ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Copy of the Annexes to the International Preliminary Examination Report (IPER).

☐ Translation of Annexes to the IPER into English.

The Annexes ☐ have ☐ have not been entered.

☒ Preliminary amendment(s) filed 23 NOV 1998 and \_\_\_\_\_

☒ Information Disclosure Statement(s) filed \_\_\_\_\_ and \_\_\_\_\_

☒ Assignment document.

☒ Power of Attorney and/or Change of Address.

☒ Substitute specification filed \_\_\_\_\_

☒ Statement Claiming Small Entity Status.

☒ Priority Document.

☒ Copy of the International Search Report ☒ and copies of the references cited therein.

☐ Other:

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

Winston Alvarado  
Telephone: (703)-205-6421

U.S. PATENT AND  
TRADEMARK OFFICE  
PCT FILING DIVISION  
PATENT & TRADEMARK OFFICE

FORM PCT/DO/EO/903 (December 1997)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
M. Egawa, et al.

Serial No.: Corresponding to PCT/JP98/01420  
filed 30 March 1998

Filed: Concurrently herewith

For: Composition for External Use For Prevention  
Of Enviromental Stress

CLAIM FOR PRIORITY

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Sir:

The benefit of the filing dates of the following prior foreign application filed in Japan is hereby requested for the above identified application and the priority provided in 35 U.S.C. 365 is hereby claimed:

Japanese patent application No. 9/95307 filed 30/March/1997

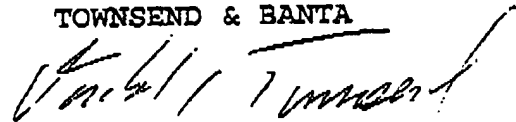
In support of this claim, a certified copy of said original foreign application was filed with the International Bureau on 01 May 1998, as evidenced by form PCT/IB/304, which is attached hereto.

It is requested that the file of this application be marked to indicate that the requirements of 35 U.S.C. 365 have been fulfilled and that the Patent and Trademark Office kindly acknowledge receipt

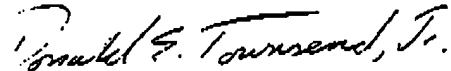
of these documents.

Respectfully submitted,

TOWNSEND & BANTA



Donald E. Townsend  
Reg. No. 22,069



Donald E. Townsend, Jr.  
Reg. No. 43,198

TOWNSEND & BANTA  
1225 Eye Street, N.W.  
Suite 500  
Washington, D.C. 20005  
(202) 682-4727

Date: November 23, 1998

first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**COMPOSITION FOR EXTERNAL USE FOR PREVENTION OF ENVIRONMENTAL STRESS**

the specification of which is ☐ attached and/or ☐ was filed on ..... as Application Serial No. .... and was amended on (if applicable) .....

☒ international (PCT) application No. PCT/JP98/01420 filed MAR. 30, 1998 and as amended on ..... (if any).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

COUNTRY	APPLICATION NUMBER	DATE OF FILING	PRIORITY CLAIMED UNDER 35 U.S.C. 119
JAPAN	9-95307	MAR. 30, 1997	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION NUMBER	DATE OF FILING	STATUS (Patented, Pending, Abandoned)

I hereby appoint the following attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Law Offices of Townsend & Banta: Donald E. Townsend, Registration No. 22,069; Teresa J. Banta, Registration No. 34,543; and ..... Please address all correspondence to the Law Offices of Townsend & Banta, Suite 500, 1225 Eye Street, N.W., Washington, D.C. 20005

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR MARIKO EGAWA		INVENTOR'S SIGNATURE <i>Mariko Egawa</i>		DATE 5/11/1998
RESIDENCE C/O SHISEIDO RESEARCH CENTER 1, SHISEIDO COMPANY, LTD. 1050, NIPPA-CHO, KOHOKU-KU, YOKOHAMA-SHI, KANAGAWA 223-8553 JAPAN		CITIZENSHIP JAPAN		
POST OFFICE ADDRESS C/O SHISEIDO RESEARCH CENTER 1, SHISEIDO COMPANY, LTD. 1050, NIPPA-CHO, KOHOKU-KU, YOKOHAMA-SHI, KANAGAWA 223-8553 JAPAN				
FULL NAME OF SECOND JOINT INVENTOR IF ANY TETSUO SAKAMOTO		INVENTOR'S SIGNATURE <i>Tetsuo Sakamoto</i>		DATE 5/6/1998
RESIDENCE C/O SHISEIDO RESEARCH CENTER 1, SHISEIDO COMPANY, LTD. 1050, NIPPA-CHO, KOHOKU-KU, YOKOHAMA-SHI, KANAGAWA 223-8553 JAPAN		CITIZENSHIP JAPAN		
POST OFFICE ADDRESS C/O SHISEIDO RESEARCH CENTER 1, SHISEIDO COMPANY, LTD. 1050, NIPPA-CHO, KOHOKU-KU, YOKOHAMA-SHI, KANAGAWA 223-8553 JAPAN				
Listing of Inventors Continued on Page 1 hereof. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

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TOWNSEND&amp;BANTA

+1 301 754 6495 P.15/17

COMPOSITION FOR EXTERNAL USE FOR PREVENTION OF ENVIRONMENTAL DAMAGE

FULL NAME OF THIRD JOINT INVENTOR, IF ANY YOSHIYUKI KOHNO		INVENTOR'S SIGNATURE <i>Yoshiyuki Kohno</i>	DATE 4/11/1998
RESIDENCE C/O SHISEIDO RESEARCH CENTER 1, SHISEIDO COMPANY, LTD. 1050, NIPPA-CHO, KOHOKU-KU, YOKOHAMA-SHI, KANAGAWA 223-8553 JAPAN		CITIZENSHIP JAPAN	
POST OFFICE ADDRESS C/O SHISEIDO RESEARCH CENTER, SHISEIDO COMPANY, LTD. 1050, NIPPA-CHO, KOHOKU-KU, YOKOHAMA-SHI, KANAGAWA 223-8553 JAPAN			
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
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FULL NAME OF SEVENTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
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RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF TENTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			

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## PATENT LAWS

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(b) In accordance with the conditions and requirements of section 119(a) of this title and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

(c) In accordance with the conditions and requirements of section 120 of this title, an international application designating the United States shall be entitled to the benefit of the filing date of a prior national application or a prior international application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application which designated but did not originate in the United States, the Director may require the filing in the Patent and Trademark Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

(Added Nov. 14, 1975, Public Law 94-131, sec. 1, 89 Stat. 686; amended Nov. 8, 1984, Public Law 98-622, sec. 403(a), 98 Stat. 3392; Dec. 8, 1994, Public Law 103-465, sec. 532(c)(4), 108 Stat. 4987; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

### 35 U.S.C. 366 Withdrawn international application.

Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect after the date of withdrawal and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, filed before the date of such withdrawal. However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, if it designated a country other than the United States.

(Added Nov. 14, 1975, Public Law 94-131, sec. 1, 89 Stat. 687; amended Nov. 8, 1984, Public Law 98-622, sec. 401(b), 98 Stat. 3391.)

### 35 U.S.C. 367 Actions of other authorities: Review.

(a) Where a Receiving Office other than the Patent and Trademark Office has refused to accord an international filing date to an international application designating the United States or where it has held such application to be withdrawn either generally or as to the United States, the applicant may request review of the matter by the Director, on compliance with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

(b) The review under subsection (a) of this section, subject to the same requirements and conditions, may also be requested in those instances where an international application designating the United States is considered withdrawn due to a finding by the International Bureau under article 12 (3) of the treaty.

(Added Nov. 14, 1975, Public Law 94-131, sec. 1, 89 Stat. 687; amended Nov. 8, 1984, Public Law 98-622, sec. 403(a), 98 Stat. 3392; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

### 35 U.S.C. 368 Secrecy of certain inventions; filing international applications in foreign countries.

(a) International applications filed in the Patent and Trademark Office shall be subject to the provisions of chapter 17 of this title.

(b) In accordance with article 27 (8) of the treaty, the filing of an international application in a country other than the United States on the invention made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title, whether or not the United States is designated in that international application.

(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Patent and Trademark Office when acting as a Receiving Office, International Searching Authority, or International Preliminary Examining Authority, may not disclose

## PATENT LAWS

(b) In accordance with the conditions and requirements of section 119(a) of this title and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

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(Added Nov. 14, 1975, Public Law 94-131, sec. 1, 89 Stat. 686; amended Nov. 8, 1984, Public Law 98-622, sec. 403(a), 98 Stat. 3392; Dec. 8, 1994, Public Law 103-465, sec. 532(c)(4), 108 Stat. 4987; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

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Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect after the date of withdrawal and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, filed before the date of such withdrawal. However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, if it designated a country other than the United States.

(Added Nov. 14, 1975, Public Law 94-131, sec. 1, 89 Stat. 687; amended Nov. 8, 1984, Public Law 98-622, sec. 401(b), 98 Stat. 3391.)

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(a) Where a Receiving Office other than the Patent and Trademark Office has refused to accord an international filing date to an international application designating the United States or where it has held such application to be withdrawn either generally or as to the United States, the applicant may request review of the matter by the Director, on compliance with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

(b) The review under subsection (a) of this section, subject to the same requirements and conditions, may also be requested in those instances where an international application designating the United States is considered withdrawn due to a finding by the International Bureau under article 12 (3) of the treaty.

(Added Nov. 14, 1975, Public Law 94-131, sec. 1, 89 Stat. 687; amended Nov. 8, 1984, Public Law 98-622, sec. 403(a), 98 Stat. 3392; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

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(b) In accordance with article 27 (8) of the treaty, the filing of an international application in a country other than the United States on the invention made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title, whether or not the United States is designated in that international application.

(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Patent and Trademark Office when acting as a Receiving Office, International Searching Authority, or International Preliminary Examining Authority, may not disclose